
**Financial Institutions &
Insurance Committee**

HB 2881

Brief Description: Regulating check cashers and sellers.

Sponsors: Representatives Appleton, Jarrett, Dickerson, Takko, Morris, Williams, Moeller, Flannigan, Haigh, Hudgins, Wallace, Sells, Kilmer, Schual-Berke, Darneille, Hunt, Campbell, Simpson and Ormsby.

Brief Summary of Bill

- Adds the spouse of a service member to the definition of a "military borrower."
- Adds to the practices that are prohibited in the collection of a loan of a military borrower.

Hearing Date: 1/31/06

Staff: Jon Hedegard (786-7127).

Background:

Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan transaction, the consumer writes the lender a post dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans. No lender may lend more than \$700 to a single borrower at any one time. The lender may charge up to 15 percent for the first \$500. If the borrower has a loan in excess of \$500, the lender can charge up to 10 percent on the amount over \$500. For example, a lender could charge up to \$30 for a \$200 loan or up to \$85 for a \$600 loan.

Under the Act, licensees must maintain business books, accounts, and records. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW.

Borrower and lenders may agree to a payment plan for payday loans. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loans; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:

- licensee;
- applicant, or
- director, officer, sole proprietor, partner, controlling person, employee of a licensee, or applicant.

Sanctions may include:

- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed \$100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and
- the removal from office or banning from participation in the affairs of any licensee.

In 2005, the Legislature passed Engrossed Substitute Senate Bill 5415. The bill applied to military borrowers. It prohibits a licensee from garnishing wages paid for service in the armed forces when collecting any delinquent small loan, contacting the military chain of command of a military borrower in an effort to collect a delinquent small loan, and making a loan from a specific location to a known military borrower when the military borrower's commander has designated that location as off-limits to military personnel. Licensees are required to defer all collection activity against a military borrower during combat or combat support deployment and honor the terms of any repayment agreement between the licensee and any military borrower.

Summary of Bill:

The bill adds to the practices prohibited in the collection of a loan of a military borrower.

Payday lenders are prohibited from threatening to contact the military chain of command of a military borrower in an effort to collect a delinquent small loan;

Payday lenders are prohibited from communicating with a military borrower in such a manner as to harass, intimidate, threaten, or embarrass the military borrower. This includes but is not limited to communication:

- at an unreasonable hour;
- with unreasonable frequency;

- that includes threats of force or violence;
- that includes threats of criminal prosecution; and
- that includes the use of offensive language.

A communication is presumed to have been made for the purposes of harassment when:

- it is made with a military borrower in any form, manner, or place, more than three times in a single week;
- it is made with a military borrower at his or her place of employment more than one time in a single week; or
- it is made with a military borrower at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.